



**US Army Corps
of Engineers**
Huntington District

Public Notice

In reply refer to:

Issuance Date:

Public Notice No. 200301010

January 30, 2004

Stream:

Expiration Date:

Missouri Creek

February 29, 2004

Address comments to:

US Army Corps of Engineers, Huntington District

602 Eighth Street

ATTN: CELRH-F

Huntington, West Virginia 25701-2070

PUBLIC NOTICE

TO WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act. This notice serves as the Corps of Engineers' request to the West Virginia Department of Environmental Protection to act on Section 401 Water Quality Certification for the following application.

APPLICANT: Brooks Run Mining Company, LLC
25 Little Birch Road
Sutton, West Virginia 26601

LOCATION: The proposed project is located in Birch River, Bragg Run of Birch River, Kate Run of Birch River, Chuffy Run of Birch River, Missouri Creek of Laurel Creek, an un-named tributary of Missouri Creek of Laurel Creek, an un-named tributary of Laurel Creek, Laurel Creek, Glade Run of Laurel Creek, and an un-named tributary of Glade Run of Laurel Creek of the Elk River of the Kanawha River watersheds, approximately two miles south of the community of Erbacon, in Webster County, West Virginia as depicted on the attached location map and topographic map.

DESCRIPTION OF THE PROPOSED WORK: The applicant proposes to place dredged or fill material into 21,756 linear feet of jurisdictional streams in conjunction with the Seven Pines Mine. The proposal would involve the construction of nine valley fills, eleven sediment ponds, and three road crossings. The construction of the proposed valley fills would result in the permanent discharge of fill material into approximately 17,091 linear feet of jurisdictional streams. Of this total, approximately 15,848 linear feet consist of intermittent stream channels while 1,243 linear feet consist of ephemeral stream channels. The proposed valley fills would affect watersheds of less than 250 acres. **Table A** (attached) details the contributing drainage areas to be affected by the proposed valley fills. The construction of the proposed sediment ponds would result in the temporary placement of dredged or fill material into 4365 linear feet of intermittent stream channels. The construction of the three road crossings would result in the temporary placement of dredged or fill material into approximately 300 linear feet of intermittent stream channels. **Table B** (attached) details the individual stream impacts and corresponding stream classifications.

Approximately 2180.5 cubic yards of unspecified, non-toxic, durable material would be discharged within the Corps' regulatory jurisdiction in conjunction with construction of the proposed structures. **Table C** (attached) summarizes the proposed discharges and associated volumes within the Corps' regulatory jurisdiction.

The mineral removal area on the permit would be developed with mountain top removal techniques utilizing loaders and dozers. The seams to be mined include the Upper, Middle and Lower Kittanning seams. The West Virginia Department of Environmental Protection (WVDEP) is currently evaluating the applicant's Surface Mining Permit No. SMA S-2010-01 and WVNPDES Permit No. WV1009885 applications pursuant to the Surface Mining Control and Reclamation Act and Section 402 of the CWA respectively. The anticipated life of the project is approximately 97 months.

Activities on the Seven Pines Mine would be accomplished in eight phases. A discussion of each phase is below.

Phase 1: The applicant would utilize a haul route from WV County Route 32, which was previously used for permits U-2002-00, U-2003-00, and U-2004-00, and extends to the mineable reserves. This road provides the required connection to a public highway.

An additional segment of haulroad would be developed from the switch back located in the existing Haulroad A and would progress up the right fork of the unnamed tributary of Missouri Creek to the Lower Kittanning Seam Horizon.

Mining would begin at the head of Left Fork of the unnamed tributary of Missouri Creek and spread westerly through the northwestern most point. This would activate the proposed Valley Fills 1, 2 and 9. Prior to construction of these fills, Sediment Ponds 1, 2 and 9 would be constructed to ensure appropriate sediment capacity for the mining disturbance. Access would be provided to these ponds by infrequently used access roads, which begin near Brooks Run Mining Company, LLC's approved Haulroad A and proceed to the proposed pond locations.

Initial mining would begin as pre-stripping and a box-cut would be developed between Valley Fills 2 and 9. Mining would continue to the northwest. The applicant indicated removal of excess overburden behind Valley Fill 1 is imperative to the development of a "staging area." The "staging area," which is not represented until Phase 2 of the proposed sequencing, would provide the applicant the opportunity to utilize existing deep mine works to transport coal from the site. Please refer to Phase 2 for further information regarding the staging area. Approximately 273.37 acres would be disturbed and unreclaimed at the end of Phase 1.

Phase 2: Phase 2 would involve reclaiming the first three lifts of Valley Fills 1, 2 and 9 while mining would continue to progress to the north on the point removal and would progress out to the right hand point. While mining is continuing to progress, the staging area would begin its development. The applicant proposes to revamp the existing deep mine works from the 9A Mine (U-2004-93) and belt coal from the surface mine to the portal area of the 9A mine located on Lick Fork. From this point coal can be transported from the haul route established for U-2004-93 and taken directly to the preparation plant for processing.

The "staging area" would consist of either a slope entry or shaft entry to the existing deep mine works. The applicant would keep this area open, but would revegetate the area during the life of the surface mining operation. During Phase 8 of the mining operation, all equipment and materials within this "staging area" would be removed from the site and any reclamation work necessary to complete the final grading of the site would be completed.

At the end of phase 2, approximately 58.16 acres would be reclaimed with approximately 272.21 acres remaining disturbed and unreclaimed.

Phase 3: Valley Fill 1 would be reclaimed and Valley Fills 3 and 4 would start actively receiving spoil following the construction of Sediment Ponds 3 and 4. Valley Fills 1, 2 and 9 would be fully reclaimed during this phase of operation. Again access to the Pond site 3 would be made available from the applicant's Haulroad A. An infrequently used access road (IUAR) 6 would be constructed to access Sediment Pond 4.

Prior to Valley Fill 3 receiving excess spoil, pre-stripping cuts would be made in the Valley Fills 3 and 4 areas and mining would advance northward out to the northeastern point between Laurel Creek and the unnamed tributary of Missouri Creek. Excess spoil generated would aid in the reclamation operations occurring on the western side of the permit operation.

At the end of phase 3, a total of approximately 311.90 acres would be reclaimed with approximately 245.81 acres remaining disturbed and unreclaimed.

Phase 4: Mining would continue in the northeastern corner of the permit area and mining would begin to shift in a southern direction. Mining would advance to the head of Bragg Run. Valley Fills 3 and 4 would have the first three lifts reclaimed. All associated sediment control structures would be in place within the disturbed limits. At the end of phase 4, a total of approximately 349.85 acres would be reclaimed with approximately 275.83 acres remaining disturbed and unreclaimed.

Phase 5: During Phase 5 of the mining operation, Valley Fill 8 would progress down to the permanent toe location. Valley Fill 5 would begin receiving excess spoil from the surface mining operations. Sediment Pond 5A would be in place to provide sediment control prior to the placement of excess spoil within the Valley Fill 5 area. Access to the area would be provided by constructing an IUAR from the Lower Kittanning seam horizon to the ponds location. At the end of phase 5, a total of approximately 579.87 acres would be reclaimed, with approximately 275.26 acres remaining disturbed and unreclaimed.

Phase 6: Mining would continue to move in a southern direction. Valley Fills 5 and 7 would begin to actively receive spoil. Valley Fills 4 and 8 would have the first three lifts reclaimed and Valley Fill 3 would be reclaimed as well as the majority of the northern reserve area. At the end of phase 6, a total of approximately 702.85 acres would be reclaimed with approximately 257.70 acres remaining disturbed and unreclaimed.

Phase 7: The remaining reserve in the south would be mined at this time. Valley Fill 6 would become active and Sediment Pond 6 would be constructed prior to the disposal of excess spoil in the valley fill area. At the end of phase 7, a total of approximately 913.03 acres would be reclaimed with approximately 185.86 acres remaining disturbed and unreclaimed.

Phase 8: The remaining mined areas would be reclaimed in this stage along with the still-active valley fill. All equipment and materials within the "staging area" would be removed from the site and any reclamation work necessary to complete the final grading of the site would be completed. During this time all drainage structures not in place would be completed and inspected. All areas would conform the final regrade configuration by the end of this phase. At the end of phase 8, the total permit acreage of 1204.85 acres would be reclaimed.

According to the applicant, the purpose of the project is to construct valley fills to dispose of excess overburden spoil generated by surface mining operations into waters of the United States in order to achieve optimal recovery of available coal reserves within the project area and to provide the mandatory sediment control and access.

Plans of the proposed work are attached to this notice.

MITIGATION PLAN: The applicant has submitted a conceptual mitigation plan to compensate for permanent and temporary impacts to waters of the U.S. regulated by the Department of the Army, Corps of Engineers.

To compensate for permanent impacts to jurisdictional streams, the applicant proposes to mitigate on-site through in-kind establishment of 17,091 feet of stream channels within the watersheds of the Birch River, Bragg Run, Kate Run and Chuffy Run of Birch River, unnamed tributary of Missouri Creek, Missouri Creek and unnamed tributary of Laurel Creek, unnamed tributary of Glade Run, Glade Run of Laurel Creek all of Elk River. The established channels would connect to aforementioned drainages of Laurel Creek and Birch River of Elk River, a navigable water of the U.S. The applicant proposes to permanently protect the mitigation sites via deed restrictions.

To compensate for temporary impacts to jurisdictional streams, the applicant proposes to perform stream channel restoration in the temporarily disturbed segments of the sediment pond areas and associated drainage corridors and access haul roads upon reclamation of the site. Approximately 4,665 linear feet of affected stream channels would be restored to their pre-mining conditions. Rosgen natural stream techniques would be used in the design of the restoration sites. A 50-foot vegetated riparian zone would be established along the restoration sites.

WATER QUALITY CERTIFICATION: A Section 401 Water Quality Certification is required for this project. It is the applicant's responsibility to obtain certification from the West Virginia Department of Environmental Protection.

HISTORIC AND CULTURAL RESOURCES: The National Register of Historic Places has been consulted and it has been determined there are no properties currently listed on the register that are in the area affected by the project. A copy of this public notice will be sent to the State Historic Preservation Office for their review. Comments concerning archeological sensitivity of a project area should be based upon collected data.


ENDANGERED/THREATENED SPECIES REVIEW: The Huntington District has consulted the most recently available information and has determined the project is not likely to affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habitat of such species, which has been determined to be critical. This public notice serves as a request to the U.S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

PUBLIC INTEREST REVIEW AND COMMENT: Any person who has an interest that may be adversely affected by the issuance of a permit may request a public hearing. The request must be submitted in writing to the District Engineer on or before the expiration date of this notice and must clearly set forth the interest which may be adversely affected and the manner in which the interest may be adversely affected by the activity.

Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof; of those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act. Written statements on these factors received in this office on or before the expiration date of this public notice will become a part of the record and will be considered in the final determination. A permit will be granted unless its issuance is found to be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

If you have any questions concerning this public notice, please call Mrs. Teresa Spagna of the South Regulatory Section at 304-399-5710.


Ginger Mullins, Chief
Regulatory Branch

(W)

Table A

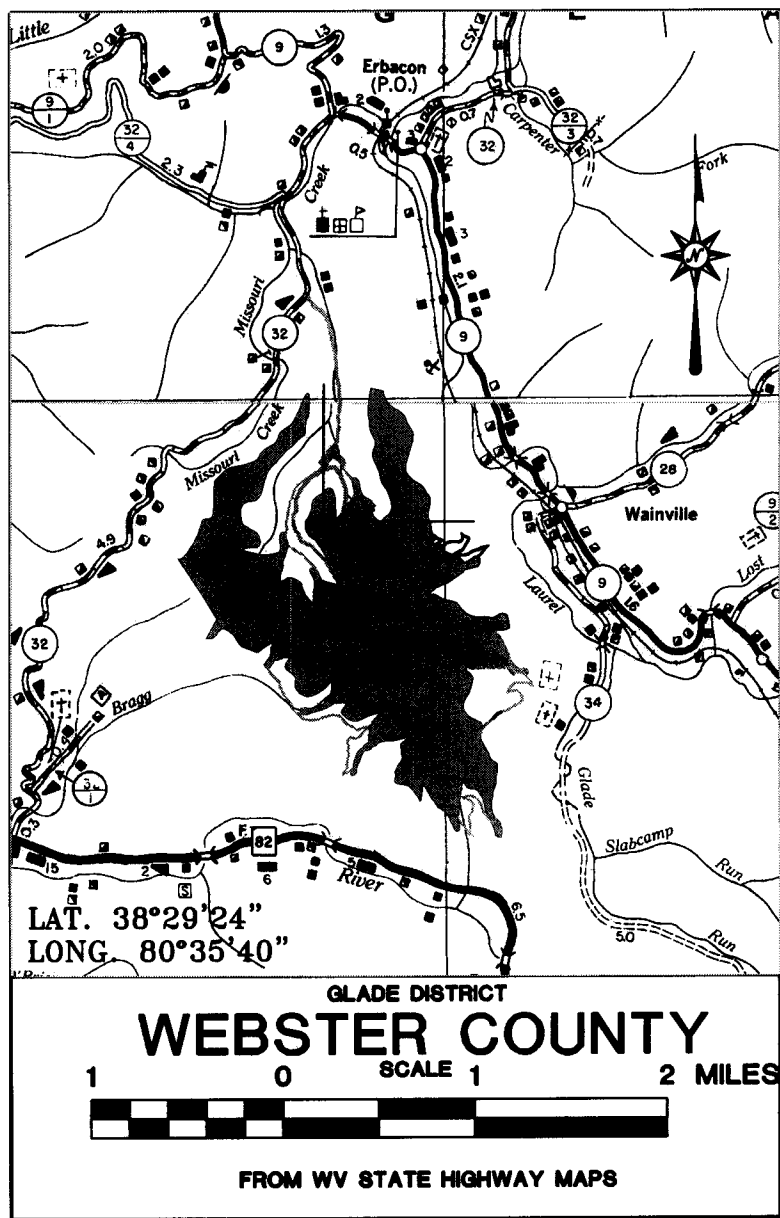
Type of Discharge	Structure Identification	Contributing Drainage Area (acres)
Permanent	Valley Fill No. 1	110.84
Permanent	Valley Fill No. 2	91.18
Permanent	Valley Fill No. 3	138.90
Permanent	Valley Fill No. 4	75.74
Permanent	Valley Fill No. 5	68.58
Permanent	Valley Fill No. 6	94.92
Permanent	Valley Fill No. 7	67.02
Permanent	Valley Fill No. 8	184.64
Permanent	Valley Fill No. 9	53.71
Temporary	Pond 1 Embankment	118.85
Temporary	Pond 2 Embankment	102.87
Temporary	Pond 3 Embankment	155.89
Temporary	Pond 4 Embankment	88.12
Temporary	Pond 5A Embankment	73.12
Temporary	Pond 6 Embankment	126.63
Temporary	Pond 7A & 7B Embankment	118.57
Temporary	Pond 8A & 8B1 Embankment	216.04
Temporary	Pond 9 Embankment	60.09
Temporary	IUAR 1 Stream Crossing	110.84
Temporary	IUAR 3 Stream Crossing	225.54
Temporary	IUAR 5 Stream Crossing	47.86

Table B

Mining Activity	Stream Location	Linear Feet	Acres	Stream Classification
Permanent Impacts				
Valley Fill No. 1	Un-named tributary of Missouri Creek	2260	0.323	Intermittent
		230	0.010	Ephemeral
Valley Fill No. 2	Un-named tributary of Missouri Creek	1330	0.200	Intermittent
Valley Fill No. 3	Un-named tributary of Missouri Creek	2065	0.533	Intermittent
Valley Fill No. 4	Un-named tributary of Laurel Creek	1100	0.141	Intermittent
Valley Fill No. 5	Un-named tributary of Glade Run	1025	0.121	Intermittent
Valley Fill No. 6	Chuffy Run of Birch River	1700	0.327	Intermittent
		100	0.014	Ephemeral
Valley Fill No. 7	Kate Run of Birch River	1088	0.129	Intermittent
Valley Fill No. 8	Un-named tributary of Bragg Run of Birch River	4469	0.808	Intermittent
		474	0.007	Ephemeral
Valley Fill No. 9	Un-named tributary of Bragg Run of Birch River	1100	0.117	Intermittent
		150	.013	Ephemeral
Temporary Impacts				
Pond 1 Embankment	Un-named tributary of Missouri Creek	220	0.036	Intermittent
Pond 2 Embankment	Un-named tributary of Missouri Creek	440	0.089	Intermittent
Pond 3 Embankment	Un-named tributary of Missouri Creek	460	0.084	Intermittent
Pond 4 Embankment		Un-named tributary of Laurel Creek	450	0.081
Pond 5A Embankment	Un-named tributary of Glade Run	325	0.038	Intermittent
Pond 6 Embankment	Chuffy Run of Birch River	350	0.073	Intermittent
Pond 7A & 7B Embankment	Kate Run of Birch River	870	0.131	Intermittent
Pond 8A & 8B1 Embankment	Un-named tributary of Bragg Run of Birch River	950	0.172	Intermittent
Pond 9 Embankment	Un-named tributary of Bragg Run of Birch River	300	0.048	Intermittent
IUAR 1 Stream Crossing	Un-named tributary of Missouri Creek	100	0.015	Intermittent
IUAR 3 Stream Crossing	Un-named tributary of Glade Run	100	0.018	Intermittent
IUAR 5 Stream Crossing	Un-named tributary of Bragg Run of Birch River	100	0.011	Intermittent

Table C

Type of Discharge	Structure Identification	Volume (yd ³) of fill material below OHW
Permanent	Valley Fill No. 1	130.2
Permanent	Valley Fill No. 2	143.8
Permanent	Valley Fill No. 3	645.2
Permanent	Valley Fill No. 4	102.2
Permanent	Valley Fill No. 5	48.6
Permanent	Valley Fill No. 6	361.7
Permanent	Valley Fill No. 7	91.1
Permanent	Valley Fill No. 8	514.3
Permanent	Valley Fill No. 9	66.3
Temporary	Pond 1 Embankment	1.3
Temporary	Pond 2 Embankment	10.8
Temporary	Pond 3 Embankment	4.7
Temporary	Pond 4 Embankment	9.9
Temporary	Pond 5A Embankment	3.2
Temporary	Pond 6 Embankment	11.5
Temporary	Pond 7A & 7B Embankment	9.9
Temporary	Pond 8A & 8B1 Embankment	14.8
Temporary	Pond 9 Embankment	3.2
Temporary	IUAR 1 Stream Crossing	4.0
Temporary	IUAR 3 Stream Crossing	2.2
Temporary	IUAR 5 Stream Crossing	1.5



SMA No. S-2010-02
NPDES No. WV1009885



PROPOSAL MAP

ATTACHMENT O-1, P-7, Q-1, Q-3, U-1, U-2

SEVEN PINES MINE

SMA-S-2010-02

BROOKS RUN MINING COMPANY, LLC

25 LITTLE BIRCH ROAD, SUTTON, WV 26601

NPDES ID: WV1009885

MSHA ID:

COUNTIES: WEBSTER

QUADRANGLE: COWEN, ERBACON

DISTRICT: GLADE

SCALE: 1"=500'





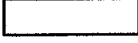

DATE: 6/28/02

LATITUDE: 38°29'24"

LONGITUDE: 80°35'40"

CONTOUR INT.: 10' & 40'

LOCATION: MISSOURI CREEK, LAUREL CREEK, BIRCH RIVER OF ELK RIVER

	ACRES		ACRES
 DISTURBED AREA	386.67		
 MINERAL REMOVAL AREA	818.18		
			
TOTAL SURFACE PERMIT AREA		1204.85	

DATE	DESCRIPTION OF REVISION	DATE	DESCRIPTION OF REVISION

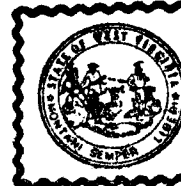


SUMMIT ENGINEERING, INC.

400 ALLEN DRIVE SUITE 100

CHARLESTON, WV 25302

PIKEVILLE, KY LEXINGTON, KY GRUNDY, VA LOGAN, WV HAZARD, KY



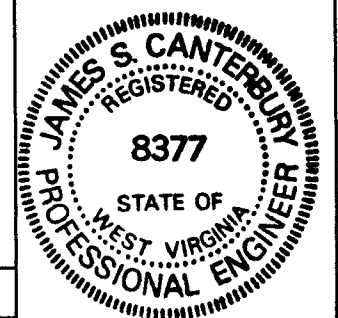
OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
TERESA K. LUCAS
P. O. BOX 226
82 CAROL LANE
BUFFALO, WV 25033
My Commission Expires April 2, 2007

I, THE UNDERSIGNED, HEREBY CERTIFY THAT THIS MAP IS CORRECT AND SHOWS ALL THE INFORMATION TO THE BEST OF MY KNOWLEDGE AND BELIEF REQUIRED BY THE SURFACE MINING LAWS OF THIS STATE.

James S. Canterbury WV 8377
SIGNATURE

ACKNOWLEDGED BEFORE ME A NOTARY PUBLIC,
THIS 29 DAY OF Sept, 2004.

Teresa K. Lucas

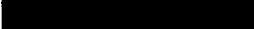

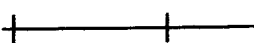






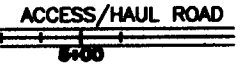





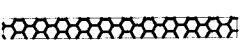
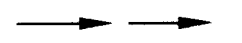



FILE NAME: SPM_P&DMap




PROJECT NO. 2001.008

PLOT DATE: 01/29/04

LEGEND

MINERAL REMOVAL	
VALLEY FILL	
RAILROADS	
PROPERTY LINE	
PROPERTY LINE	
PERMANENT MONUMENT	
PERMIT MARKER	
1000' RADIUS OF INFLUENCE	
PROPERTY OWNER TRACT NO.	
PROPOSED ROADS	
INFREQUENTLY USED ACCESS ROADS	
ROADWAY CULVERT	
ROADWAY SUMP W/CULVERT & SUMP	
SEDIMENT PONDS	
EXCAVATED SEDIMENT DITCH	
CENTER DRAIN/DITCH/RIP-RAP FLUME	
FLOW DIRECTION	
ADJACENT PERMITTED AREAS	

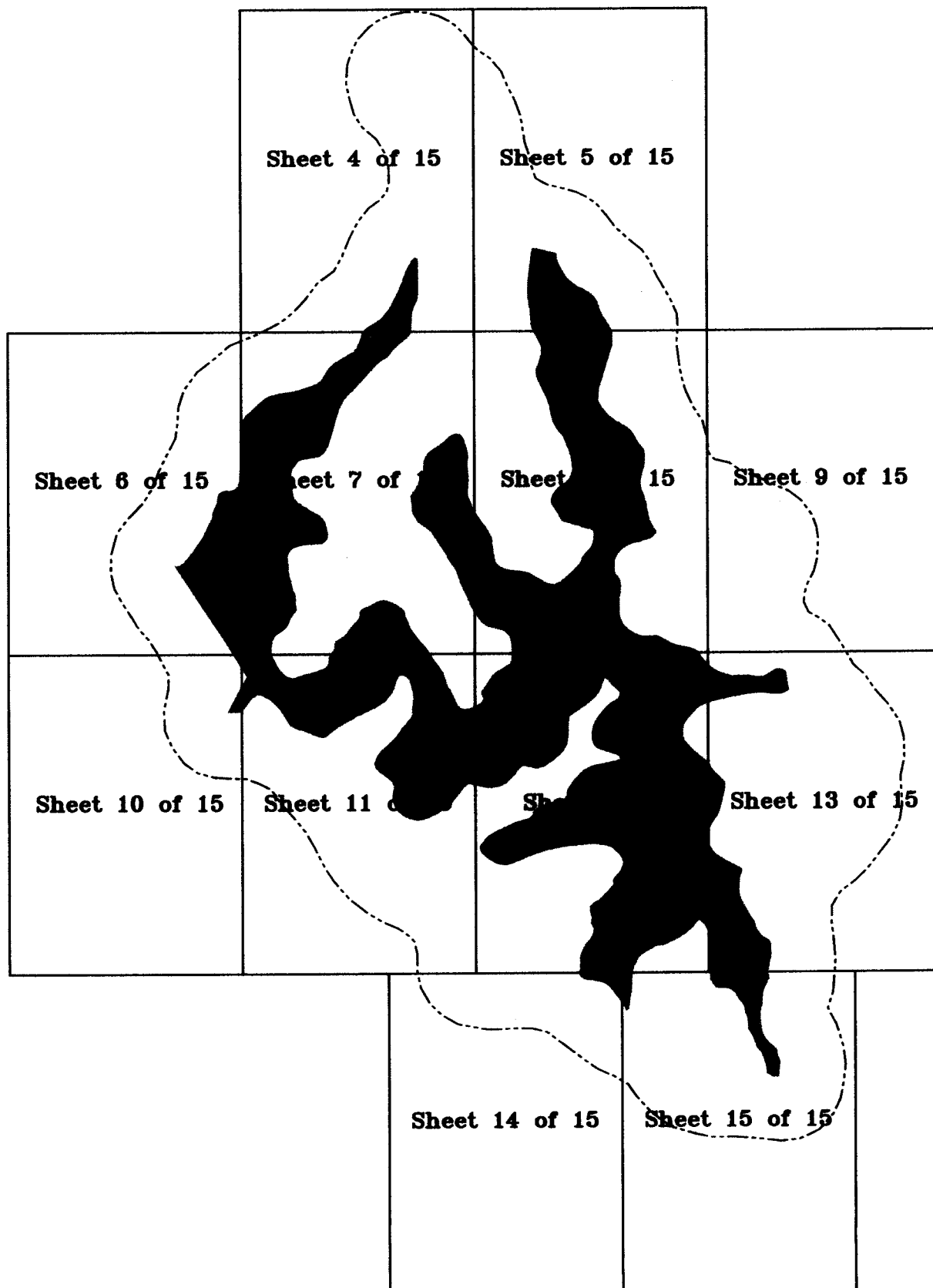
COAL SEAM OUTCROPS

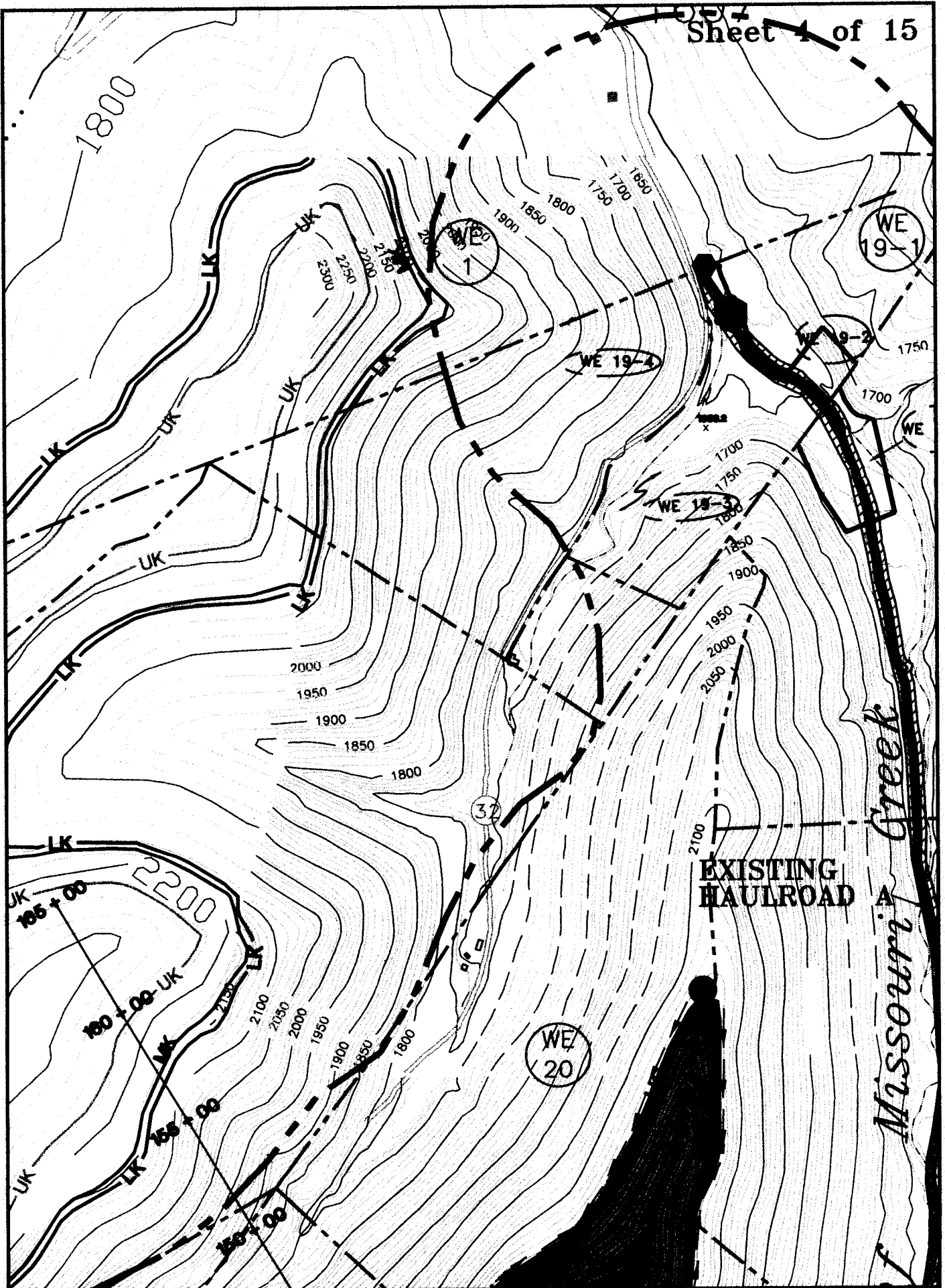
UPPER KITTANNING	
MIDDLE KITTANNING	
LOWER KITTANNING	

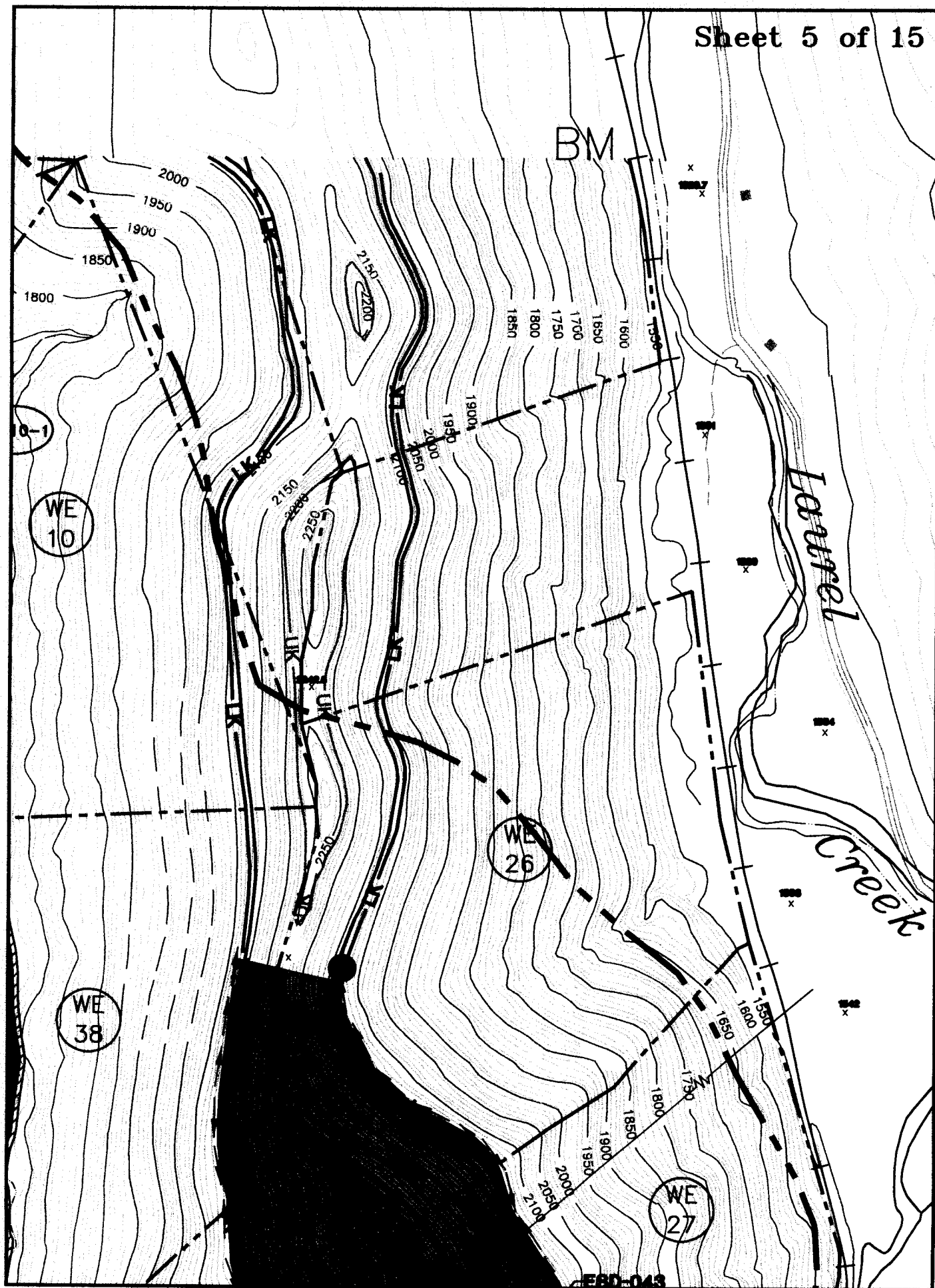
Sheet 1 of 15 - Title
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BROOKS MINING COMPANY, LLC
PERMIT P-612

Privately Owned Power Line
Brooks Mining Company Inc.

THIS IS A NON-PROTECTED STRUCTURE
OWNED BY BROOKS MINING COMPANY, LLC. HAS
AN AGREEMENT FOR RELOCATION OR REMOVAL
FROM BLASTING DANGERS

BROOKS RUN
PERMIT NO.

Permit No. U-2014-98

BROOKS MINING COMPANY, LLC
PERMIT P-612

Lick Fork

INC. MINE NO.

RAIL

UK

UK

UK

UK

UK

UK

UK

UK

2350

2300

400

2100

2150

2050

1900

1950

2000

2050

2100

2150

2200

2250

2300

2350

2400

2450

2500

2550

2600

2650

2700

2750

2800

2850

2900

2950

3000

3050

3100

3150

3200

3250

3300

3350

3400

3450

3500

3550

3600

3650

3700

3750

3800

3850

3900

3950

4000

Creek

WE
35

WE
39

WE
14

Tributary

HAULROAD 1

IUAR 1

ESD-025

POND
CLEANINGS
AREA

SUMP

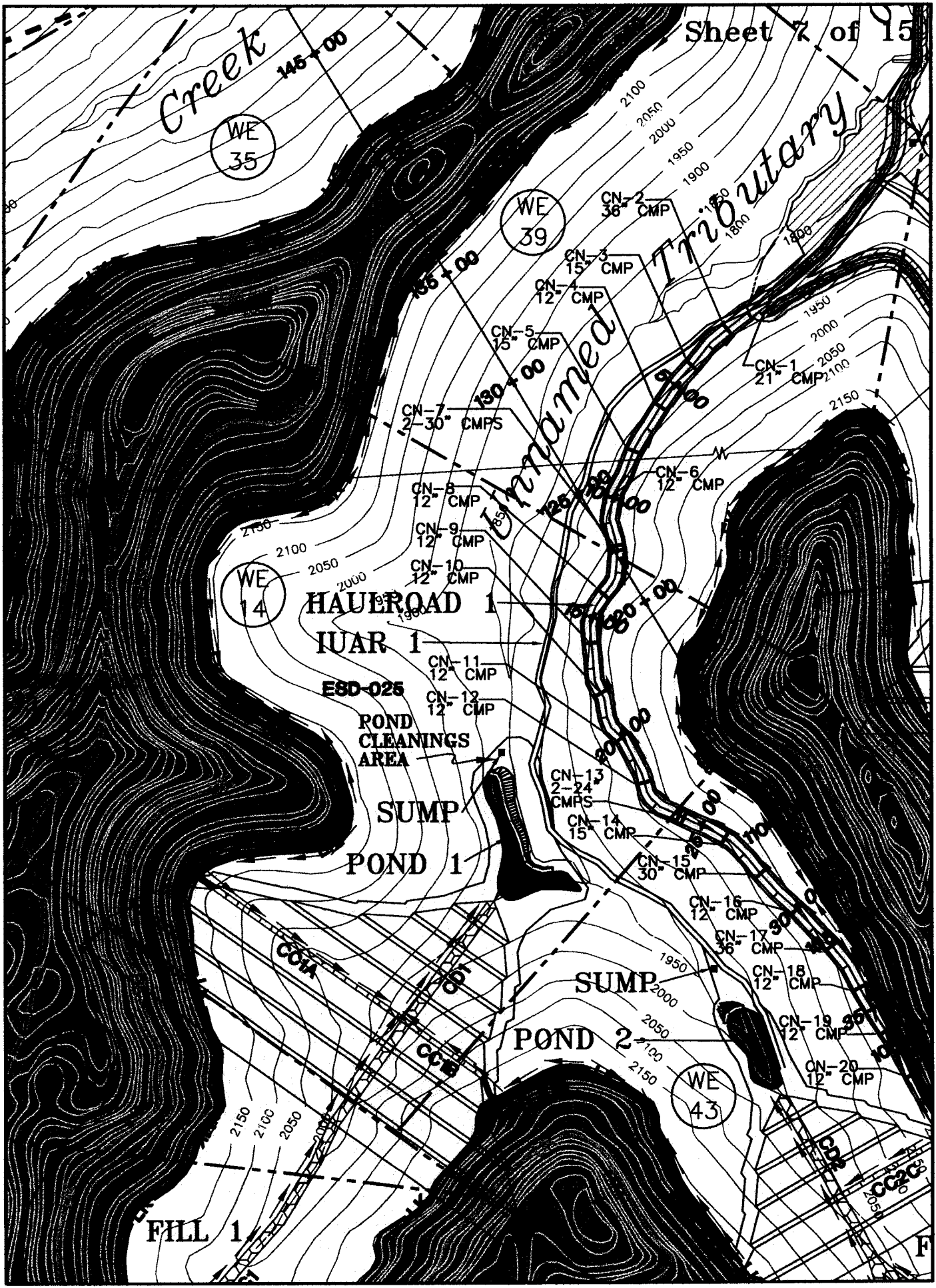
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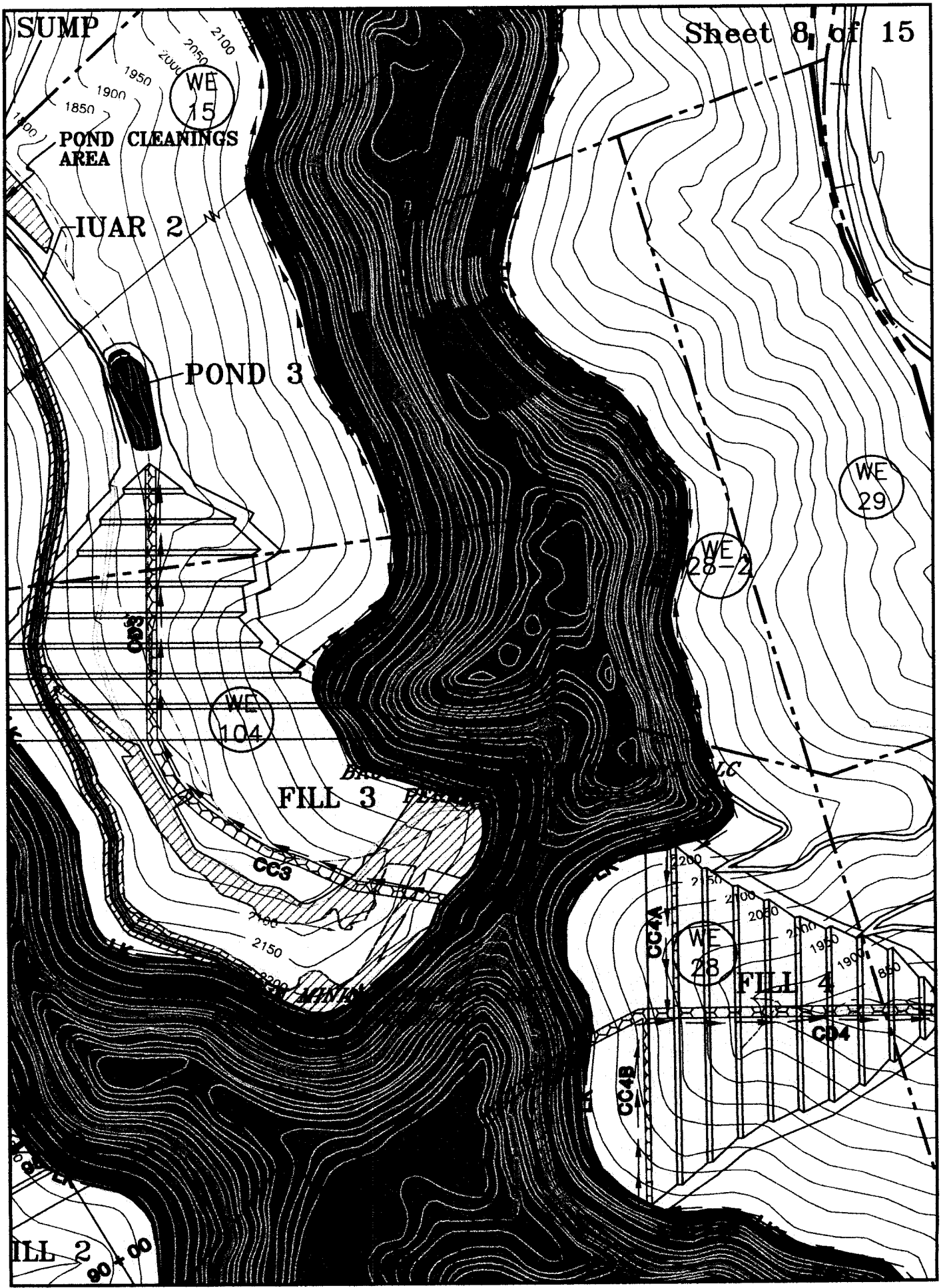
SUMP

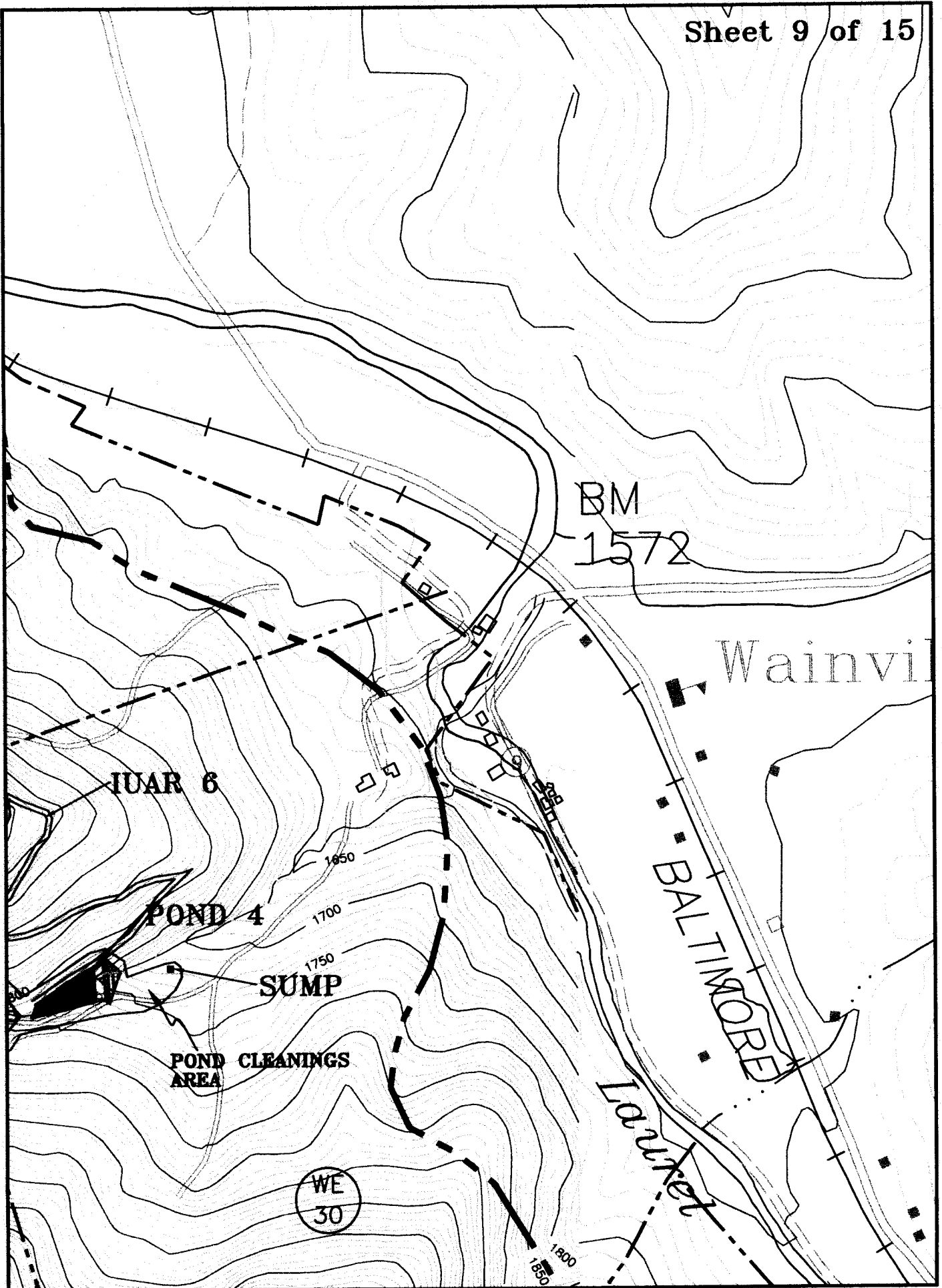
POND 2

FILL 1

WE
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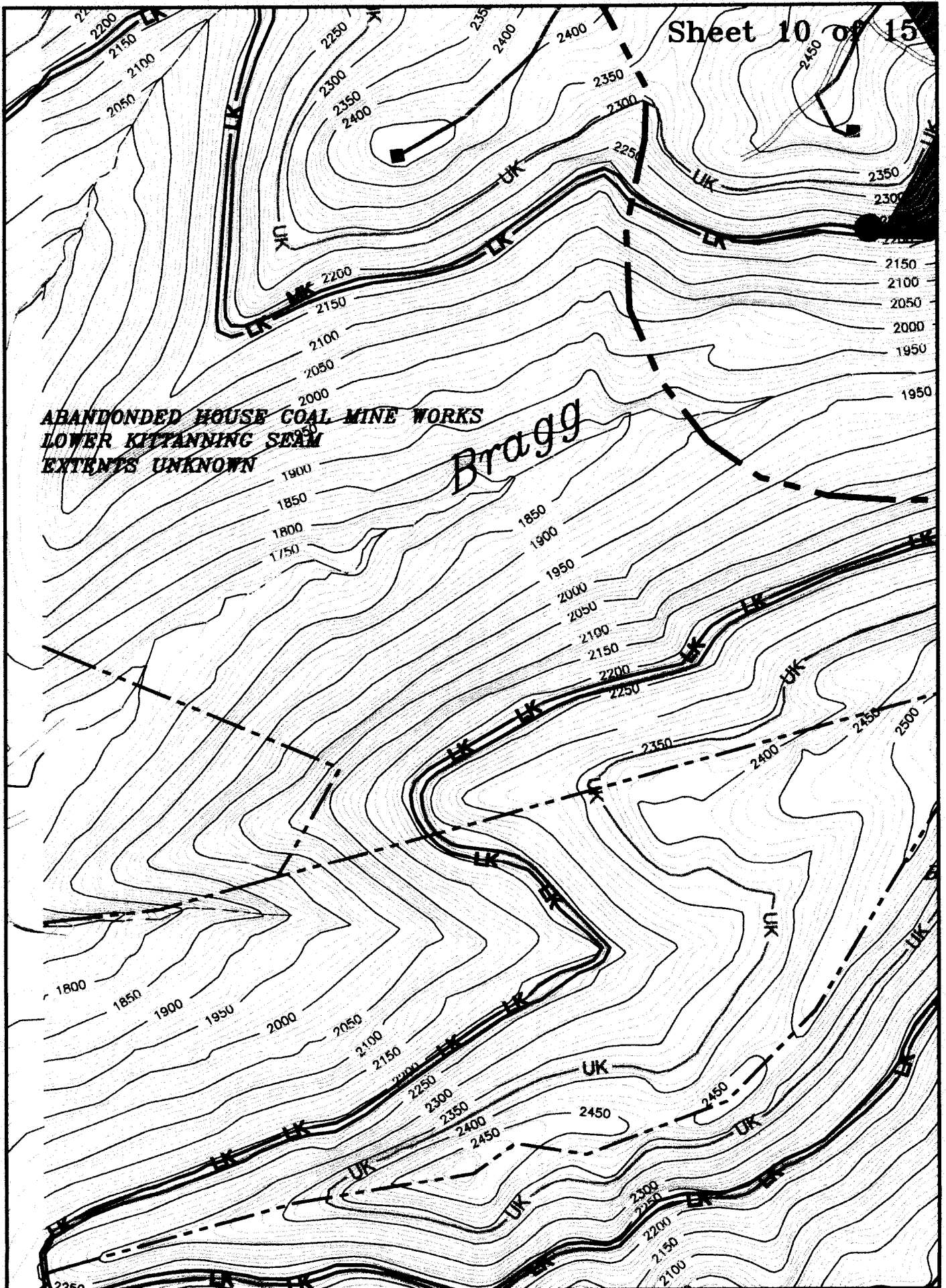


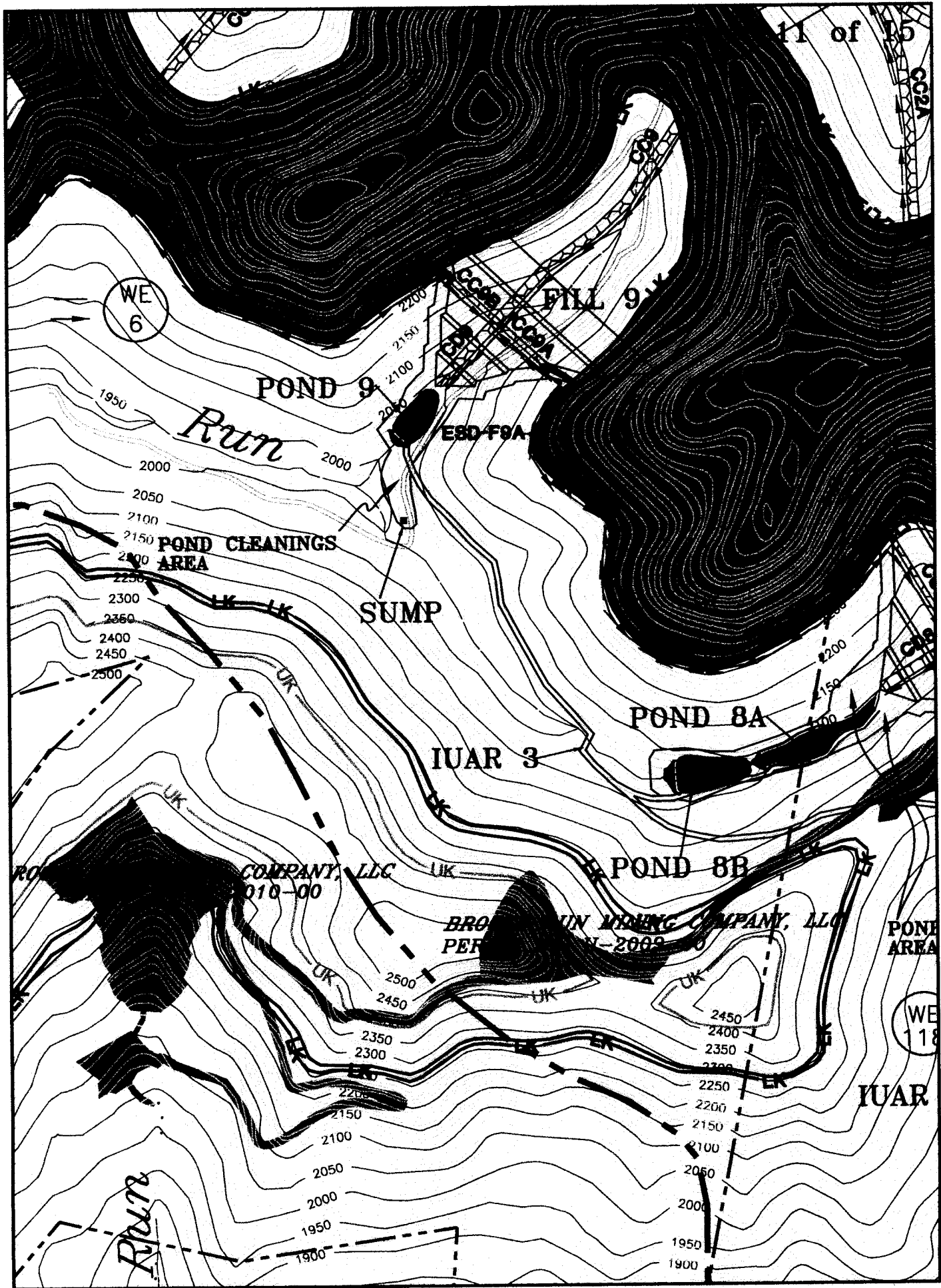




ABANDONED HOUSE COAL MINE WORKS
LOWER KITTANNING SEAM
EXTENTS UNKNOWN

Bragg





CC2B

85+00

80+00

75+00

70+00 CC8

65+00

60+00

55+00

50+00

45+00

40+00

35+00

CC5

BROOKS RUN MINING COMPANY, LLC
PERMIT NO. U-2002-00

ESD-063

FILL 8

CC8A

ESD-F8A

ESD-066 ESD-F7B

FILL 7

CC7B

CC7A

CC7

TRAYINGS

ESD-F7A

ESD-065

ESD-064

POND 7A

POND 7B

FILL 6

CC6

CC6A

POND CLEANINGS

Run

